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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,864	11/18/2003	Yasuhiro Ueki	0124/0019	9361
21395	7590	01/02/2008		
LOUIS WOO LAW OFFICE OF LOUIS WOO 717 NORTH FAYETTE STREET ALEXANDRIA, VA 22314			EXAMINER HALEY, JOSEPH R	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 01/02/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/714,864
Filing Date: November 18, 2003
Appellant(s): UEKI, YASUHIRO

Louis Woo
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/28/07 appealing from the Final rejection mailed 5/31/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6285632	Ueki	9-2001
5640382	Florczak et al.	6-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueki (US 6285632) in view of Florczak et al. (US 5640382).

In regard to claim 1, Ueki teaches rotating the recording medium; enabling a lead to reproduce the first and second information signals from the first and second places in the recording medium on a time sharing basis to get first and second reproduced signals respectively (fig. 2 see also column 3 lines 51-55); temporarily storing the first and second reproduced signals in a buffer memory (fig. 2 elements 19a and 19b); outputting the first and second reproduced signals from the buffer memory at first and second transfer rates respectively (elements Ra and Rb); transmitting the first and second reproduced signals from the head to the buffer memory on a time sharing basis and at a third transfer rate higher than the first and second transfer rates (column 3 lines 40-44); and deciding at least one of (1) an information amount of the first reproduced signal continuously transmitted from the head to the buffer memory and (2) an information amount of the second reproduced signal continuously transmitted from the head to the buffer memory on the basis of a given relation among parameters including (a) a time interval taken by the head to move from the first place to the

second place, (b) a time interval taken by the head to move from the second place to the first place, (c) a time interval taken by the head to move its focus from the first signal recording layer to the second signal recording layer, (d) a time interval taken by the head to move its focus from the second signal recording layer to the first signal recording layer, (e) the first transfer rate, (f) the second transfer rate, and (g) the third transfer rate (column 3 line 67); however, Ueki does not teach plural recording layers.

Florczak et al. teaches plural recording layers (fig. 1).

The two are analogous art because they both deal with the same field of invention of optical media.

At the time of invention it would have been obvious to one of ordinary skill in the art to provide the apparatus of Ueki with the plural layers of Florczak et al. The rationale is as follows: At the time of invention it would have been obvious to provide the apparatus of Ueki with the plural layers of Florczak et al. because it would provide a disc with more information storage capability.

Claims 2 and 3 share similar limitations as claim 1 and are rejected on the same basis as claim 1 above.

(10) Response to Argument

In response to applicant's argument on page 15, paragraph 2, that "Ueki does not disclose or suggest any parameter that deals with any time interval taken by the pick-up head to move its focus from a first signal recording layer to a second signal recording layer, or from the second recording layer to the first recording layer, of a multi-layer recording medium, as required in sub-steps (c) and (d) of the deciding step of

claim 1", the examiner maintains this rejection because the language as stated in the claim does not require sub-steps c and d as argued above. Claim 1 states "a given relation among parameters..." and then lists parameters a-g. The broadest reasonable interpretation of the limitation "a given relation among parameters" means a relationship between at least two parameters must be shown. The word among makes it the examiners discretion as to which parameters to choose, they are all not required by the claim language. The examiner has shown a relationship among parameters a, b, e, f, and g; therefore, meeting the claim language.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Joseph Haley/

Conferees:

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/William Korzuch/
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